

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

<b>UNITED STATES OF AMERICA,</b>	)	<b>CASE NO. 8:06CR166</b>
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>ORDER</b>
	)	
<b>CHANDRA WRIGHTSELL,</b>	)	
	)	
<b>Defendant.</b>	)	

This matter is before the Court on the Defendant's motion for relief pending appeal (Filing No. 59). The Court has considered the government's response (Filing No. 60).

The Defendant, Chandra Wrightsell, pleaded guilty to a one-count Indictment charging her with misapplication of bank funds. After an evidentiary hearing, the Court denied the Defendant's objection to the enhancement for abuse of a position of trust and motion for downward departure or variance. The Defendant was sentenced to the low end of the sentencing guideline range at 15 months and 5 years supervised release. The Defendant's check for her appellate fee was returned for insufficient funds. The fee was then paid, and a receipt was issued. The Defendant requests release pending appeal, arguing that the Defendant is not likely to flee or pose a danger to the community and that the appeal is not for purposes of delay and raises a substantial question of law or is likely to result in reversal with respect to the issues of abuse of trust and her requested downward departure or variance. The Defendant argues that her appeal process is likely to outlast her period of incarceration.

The issue of abuse of trust is reviewed under the clear error standard. *United States v. Mashek*, 406 F.3d 1012, 1017 (8<sup>th</sup> Cir. 2005). The motion for downward

departure or variance is reviewable on appeal under the abuse of discretion standard and insofar as the Eighth Circuit determines whether the sentence is reasonable. *United States v. Thundershield*, 474 F.3d 503, 507 (8<sup>th</sup> Cir. 2007).

The relevant statute provides the presumption that a defendant shall be detained pending appeal, unless a court finds:

- (A) by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released under section 3142(b) or (c) of this title; and
- (B) that the appeal is not for the purpose of delay and raises a substantial question of law or fact likely to result in--
  - (i) reversal,
  - (ii) an order for a new trial,
  - (iii) a sentence that does not include a term of imprisonment, or
  - (iv) a reduced sentence to a term of imprisonment less than the total of the time already served plus the expected duration of the appeal process.

18 U.S.C. § 3143(b).

The record reflects that the Defendant presents a continuing danger to the community. Moreover, given the issues in this case, the evidence presented, and the applicable standards of review, the Defendant has failed to show that the appeal raises a substantial question of law or fact likely to result in a reversal or a sentence that will be reduced to less than the time she will have served at the conclusion of her appeal.

IT IS ORDERED that the Defendant's motion for relief pending appeal (Filing No. 59) is denied.

DATED this 17<sup>th</sup> day of April, 2007.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge